

**APPROVED MINUTES  
YORK COUNTY PLANNING COMMISSION**

Regular Meeting  
York Hall, 301 Main Street  
August 11, 2004

**MEMBERS**

Nicholas F. Barba  
John R. Davis  
Frederick W. Harvell  
Alexander T. Hamilton  
John W. Staton  
Alfred E. Ptasznik, Jr.  
Andrew A. Simasek

**CALL TO ORDER**

Vice Chair Alfred E. Ptasznik, Jr. called the regular meeting to order at 7:00 p.m.

**ROLL CALL**

The roll was called and all members except Mr. Simasek were present. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Amy Parker, and Earl Anderson.

**REMARKS**

Vice Chair Ptasznik remarked that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

**APPROVAL OF MINUTES**

Mr. Barba moved the adoption of the minutes of the regular meeting July 14, 2004. By roll call vote, they were adopted 6:0 (Mr. Simasek absent).

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARINGS**

**Application No. UP-640-04, Kenneth Dale Moore:** Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 14, No. 6) of the York County Zoning Ordinance, to authorize the expansion of an existing mini-storage warehouse facility located at 2360 Hampton Highway (Route 134) onto an adjacent 1.23-acre portion of a 2.34-acre parcel currently occupied by the Wash Moore car wash facility and further identified as

Assessor's Parcel No. 37-158B. The property is zoned GB (General Business) and is designated for General Business development in the Comprehensive Plan.

**Mr. Timothy Cross**, Principal Planner, summarized the staff report to the Commission dated August 3, 2004, in which the staff made a recommendation of approval. He explained that, because the former use of the property was a car wash that was not a commercial success, conversion to mini storage units would be preferable. He said the conditions of the proposed resolution are practically identical to those for the original application that permitted the car wash facility.

**Mr. Barba** asked if the applicant proposes to reduce the total number of buildings on the site from three to one. **Mr. Cross** said approval would still permit three buildings on the site with 20 feet of landscaping between Wash Moore and Stor Moore.

**Mr. Barba** noted the hues for the proposed addition appear to be different from the existing Stor Moore units. He when the mini-storage facility was reviewed by the Commission, he thought the colors would be more compatible. **Mr. Cross** agreed that although the roofs match, the building exteriors appear slightly different in hue.

**Mr. Hamilton** asked what the procedure would be if the applicant decided to return the use to a car wash. **Mr. Cross** said a car wash would still be allowed but only by special use permit in General Business zoning, and that once converted to some other use, would lose its "grandfather" status. **Mr. Barnett** added that when a non-conforming use is abandoned for a period of time, it loses its status. He believes the applicant would be required to submit a new application for a use permit.

The Vice Chair opened the public hearing.

**Mr. Kenneth Dale Moore**, 104 Lewis Drive, Seaford, thanked the staff for its thorough examination of the issues and its recommendation of approval. He said he had not planned to request this conversion but the only way he thinks the property can be profitable is to convert the car wash facility to storage units because the car wash is not profitable. Mr. Moore offered to answer any questions.

**Mr. Davis** asked if the present Stor Moore units on Route 134 are fully occupied. **Mr. Moore** said they are.

**Mr. Barba** asked how many additional units the applicant is requesting, and **Mr. Moore** said from 90 to 170, depending on the sizes and configuration of the units. He added that he would like to maximize the potential income due to the investment he has already made. He plans to use the same design and guidelines as the existing units at the location so the addition should not be apparent.

**Mr. Barba** thought it was important to maintain compatibility with the existing units, and noted that there was concern among the Commission at the time this Stor Moore facility came up for public hearing that they would be obvious from Route 134 and the Commission was assured they would not be, but they are "very visible." He recommended more landscaping and better buffering from Route 134.

**Mr. Moore** explained that the Virginia Department of Transportation ordered the removal of some of the trees buffering the site from Route 134, and others were lost during Hurricane Isabel last year. He has since supplemented the planting inside the buffer.

**Mr. Ptasznik** asked if the self-service car wash located at the front of the property is profitable at this time, and **Mr. Moore** said it is “reasonably” profitable but approval would enable him to attempt to maximize the profitability of the property as a whole.

**Mr. Ptasznik** asked if garage doors for internal storage are planned for the front of the building. **Mr. Moore** said there would be one row of doors facing in toward the central area, not to the front.

**Mr. Ptasznik** closed the public hearing.

**Mr. Barba** does not want that traffic corridor to become a “storage capital” or believe the County has an obligation to find a use for a vacant building. He said he could, however, vote in favor of the application.

**Mr. Hamilton** said he is not a proponent of storage warehouses but approval of this application would maximize the use of the land, and it presents an opportunity to see that the land is utilized.

**Mr. Ptasznik** agreed that turning York County into a “storage facility for the world” is not his choice but because of the proximity of military and military-contract personnel in the County there is a need for this type of service.

**Mr. Barba** moved the adoption of Resolution PC04-18.

PC04-18

On motion of Mr. Barba, which carried 6:0 (Mr. Simasek absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE THE EXPANSION OF A MINI-STORAGE WAREHOUSE FACILITY LOCATED AT 2360 HAMPTON HIGHWAY ONTO AN ADJACENT 1.23-ACRE PORTION OF A 2.34-ACRE PARCEL LOCATED AT 3010 BIG BETHEL ROAD

WHEREAS, Kenneth Dale Moore has submitted Application No. UP-640-04, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 14, No. 6) of the York County Zoning Ordinance, to authorize the expansion of an existing mini-storage warehouse facility located at 2360 Hampton Highway (Route 134) onto a 1.23-acre portion of a 2.34-acre parcel of land located at 3010 Big Bethel Road (Route 600) and further identified as Assessor’s Parcel No. 37-158B; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of August, 2004 that Application No. UP-640-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize the expansion of

an existing mini-storage warehouse facility located at 2360 Hampton Highway (Route 134) subject to the following conditions:

1. This use permit shall authorize the expansion of an existing mini-storage warehouse facility located at 2360 Hampton Highway (Route 134) onto an adjacent 1.23-acre portion of a 2.34-acre parcel of land located at 3010 Big Bethel Road (Route 600) and further identified as Assessor's Parcel No. 37-158B.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any construction or land disturbing activities on the site. Except as modified herein, said site plan shall be in substantial conformance with the sketch plan entitled "Preliminary Sketch: Expansion of Stor Moore 4," prepared by Campbell Land Surveying, Inc. and dated June 22, 2004.
3. The mini-storage warehouse facility shall be developed and operated in accordance with the standards set forth in Section 24.1-483, Standards for all wholesaling and warehouse uses, and Section 24.1-484, Standards for mini-storage warehouses, of the York County Zoning Ordinance.
4. Building additions that would expand existing warehouses to a length greater than 200 feet shall not be permitted.
5. A Type 25 (twenty-five-foot) transitional buffer shall be maintained along the entire rear portion of the property adjacent to the Belmont Apartment complex.
6. The hours of operation of the facility shall be limited to 6:00 a.m. to 9:00 p.m. daily.
7. All outward-facing walls shall be constructed of split-face block and shall be compatible in color and architecture with the adjacent Wash-Moore car wash facility and Belmont Apartment complex.
8. No additional freestanding signage for the mini-storage warehouse facility shall be permitted.
9. The development shall be limited to a maximum of 28,160 net square feet of rentable space.
10. All warehouse doors shall face the inside of the mini-storage warehouse development.
11. Fencing shall be of a black, wrought iron style. The use of chain link or similar theft-deterrent wire (i.e., barbed wire, razor wire, etc.) anywhere on the property shall not be permitted.
12. Building height shall be no greater than fifteen feet (15'), as measured from the finish grade, except for any gables on the decorative facade, which may be no greater than thirty feet (30'), as measured from the finish grade.
13. The applicant shall be responsible for compliance with the regulations in Section 24.1-115(b)(6) of the Zoning Ordinance that pertain to the recordation of this resolution in the office of the Clerk of the Circuit Court.

**Application No. UP-642-04, Carpe P.M., Inc.:** Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 18) to authorize a nightclub to be operated as part of a planned 1,970-square foot restaurant to be located at 264A and 264B McLaws Circle within the Festival Marketplace shopping center. The property is located within both York County and James City County. The portion of the property located within York County is zoned GB (General Business) and is identified as Assessor's Parcel No. 15-4-3A, and the portion in James City County is zoned M1 (Limited Business/Industrial) and is identified as Parcel ID 5020900002B. The property is located on the east side of McLaws Circle, approximately 200 feet south of its intersection with Busch Way. The property is designated for General Business development in the Comprehensive Plan.

**Ms. Amy Parker**, Senior Planner, presented a summary of the staff memorandum dated August 3, 2004, in which the staff recommended approval. She added that comments were solicited but none were received from James City County or other occupants of the building in which the proposed restaurant would be sited. She noted Sheriff Diggs had no concerns with the use given the proposed approval conditions.

**Mr. Ptasznik** asked if the restaurant with dance floor would be allowed by right in James City County. **Ms. Parker** said the dance floor would be considered as accessory to the restaurant in James City County and would not require a special use permit. Because of where the county line falls, she added, York County has permitting authority.

**Mr. Harvell** asked if the Fire Marshal had commented on the application. **Ms. Parker** said the Department of Fire and Life Safety reviewed the application and had no comments. She noted the unit had four exits and room in the front and back for emergency vehicles.

**Mr. Davis** asked what other nightclubs exist in the County and what limitations the County can impose on other activities besides dancing that could take place in a nightclub.

**Ms. Parker** did not know how many nightclubs are in York County.

**Mr. Barnett** noted the application is for a restaurant, defined as a business that serves food. When a dance floor is added, the use also becomes a nightclub. Adding a dance floor to a restaurant does not increase the possibility for other kinds of activities other than dining and dancing.

**Vice Chair Ptasznik** opened the public hearing.

**Mr. Allen Ennis**, 105 Brookshire Crescent, Newport News, spoke of his plans for the restaurant. He wants to provide an upscale restaurant catering to a primarily local clientele that respects the reputation of the Williamsburg area. Music would be from the 1960s to the 1980s, appealing to a mature clientele. Dancing would not start until 9:30 PM. No band or live entertainment will be used, only music from CDs or tapes. The sound system has been tested and the music should not extend beyond the interior of the restaurant.

**Mr. Ennis** said security staff, identifiable by their attire, would patrol the parking lot and interior. Lunch and dinner will be served. He said because most businesses in the building close between 6 and 8 PM, ample spaces in the parking lot would be available. He believed the restaurant could create more income for the Pancake House and the nearby Italian restaurant.

**Mr. Davis** asked Mr. Ennis if he has other nightclubs. **Mr. Ennis** said he does not, explaining that he is an active entrepreneur who has helped friends establish businesses including some high-scale bars in the Suffolk area and a home theater business in the Williamsburg area.

**Mr. Barba** asked if tables would be moved for dancing, and **Mr. Ennis** said the tables will be portable.

**Mr. Hamilton** inquired about signage and lights. **Mr. Ennis** said the windows on the restaurant's south side are blacked out and windows at the front will be tinted to allow vision only from the inside out. He has no plan to attract people from Route 60, he added.

**Mr. Harvell** inquired about the occupancy. **Mr. Ennis** said several floor plans are being considered, so at this time the occupancy limit is not certain.

**Mr. Ptasznik** asked if a disc jockey or small combo would be employed at times. **Mr. Ennis** said only a computer that also can project classic videos on the wall would generate the music, reiterating there will be no live bands or DJs.

**Vice Chair Ptasznik** closed the public hearing.

**Mr. Harvell** expressed concern about occupancy and how much area people standing around the dance floor would use. **Ms. Parker** said the occupancy allowance would be based on the highest use of this multiple-use application and that determination will take place in accordance with state building codes when final plans are submitted.

**Mr. Barba** moved adoption of Resolution PC04-20.

PC04-20

On motion of Mr. Barba, which carried 5:1 (Mr. Davis dissenting, Mr. Simasek absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT  
TO AUTHORIZE A NIGHTCLUB/RESTAURANT AT 264A AND 264B MCLAWS  
CIRCLE WITHIN THE FESTIVAL MARKETPLACE SHOPPING CENTER

WHEREAS, Allen G. Ennis and Tien Kim Le, Carpe P.M., Inc have submitted Application No. UP-642-04, which requests a special use permit, pursuant to Section 24.1-306 (Category 11, No. 18) of the York County Zoning Ordinance, to authorize a 1,970-square foot restaurant and nightclub within the Festival Marketplace shopping center located at 264A and 264B McLaws Circle. The property is located on the east side of McLaws Circle, approximately 200 feet south of its intersection with Busch Way, and is identified as Assessor's Parcel No. 15-4-3A.

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of August, 2004 the Application No. UP-642-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a 1,970-square foot restaurant and nightclub within the Festival Marketplace shopping center located at 264A and 264B McLaws Circle subject to the following conditions:

14. This use permit shall authorize a 1,970-square foot restaurant and nightclub located within the Festival Marketplace shopping center located at 264A and 264B McLaws Circle and further identified as Assessor's Parcel No. 15-4-3A.
15. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of the proposed nightclub. Said site plan shall be in substantial conformance with the sketch plan submitted by the applicant and received by the Planning Division on July 1, 2004, except as modified herein or as may be necessary to comply with site plan review requirements.
16. At time of site plan approval, a detailed parking tabulation for the shopping center shall be submitted to and approved by Environmental and Development Services. The tabulation shall take into account all current uses as well as the proposed use with their corresponding parking requirements.
17. Noise from the proposed use shall be contained within the subject shopping center units, and noise shall not be audible outside the confines of the units.
18. The hours of operation of the facility shall be limited from 11:00 a.m. to 2:00 a.m. daily.
19. There shall be no loitering of patrons outside the facility or in the adjacent parking lot, and the applicant shall be responsible for monitoring the immediate area to prevent loitering.
20. Parking lot lighting shall remain active until at least one hour after closing time for the facility.
21. The applicant shall be responsible for removal of any trash or debris from their portion of the parking lot daily.
22. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

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## **OLD BUSINESS**

There was no old business.

## **NEW BUSINESS**

There was no new business.

## **STAFF REPORTS**

Mr. Carter reported on recent actions by the Board of Supervisors and talked briefly about minor revisions to Application No. ZM-85-04 slated for Board public hearing August 17.

Mr. Cross discussed the 2025 update to the Comprehensive Plan and talked about the series of 15 informal, open-house-style neighborhood meetings that will run through September and October. These meetings will allow citizens to talk with the Steering Committee and staff about their visions for the County. He spoke of the venues, logistics and plans for the meetings, publicity and advertising, and the respective roles of the Steering Committee and Communications and Outreach Group (COG). Mr. Cross reminded that the Steering Committee will convene on August 19 in the East Room, and jointly with the COG at the Tabb Library on August 26.

Mr. Barba thanked Mr. Cross for his report and reminded the members of the Steering Committee to come to the next meeting with their “thought-provoking questions” as discussed.

## **COMMITTEE REPORTS, COMMISSION REPORTS AND REQUESTS**

There were no other reports.

## **ADJOURN**

Vice Chair Ptasznik adjourned the meeting at 8:00 p.m.

**SUBMITTED:** \_\_\_\_\_/ s / \_\_\_\_\_  
Phyllis P. Liscum, Secretary

**APPROVED:** \_\_\_\_\_/ s / \_\_\_\_\_  
Andrew A. Simasek, Chair

**DATE:** September 8, 2004